IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 755 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

FAZLUR REHMAN MUSTUFAKHAN PATHAN

Versus

DEPUTY COMMISSIONER OF POLICE CITY OF AHMEDABAD

Appearance:

1. Special Criminal Application No. 755 of 2001

MR MHM SHAIKH for Petitioner No. 1

MR S.S. PATEL, AGP for Respondent State

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 08/02/2002

ORAL JUDGEMENT

The petitioner by this petition under Article 226 of the Constitution of India seeks to challenge an order dated 31.7.2001, passed by the Deputy Commissioner of Police, Ahmedabad City, Ahmedabad in exercise of powers

under Section 56B of Bombay Police Act. The petitioner came to be externed from the areas of Ahmedabad City, Ahmedabad Rural, Gandhinagar, Kheda and Mehsana districts for a period of one year.

2. The petitioner was issued with a notice under Section 59 of the Bombay Police Act, on 12.4.2001, and after considering the reply and material, the order was passed. The said order was carried in appeal under Section 60 of the Bombay Police Act, before the appellate authority and the appellate authority on 18th Sept. 2001, dismissed the appeal which has given rise to the present petition.

3. Learned AGP Mr. S.S. Patel has opposed to this petition.

4. The petition deserves to be allowed on the ground that the petitioner is ordered to be externed from contiguous districts of Ahmedabad City, Ahmedabad Rural, Gandhinagar, Kheda and Mehsana for a period of one year without there being any material to indicate that he is required to be externed from these contiguous districts. There is not an iota of word as to how the authority recorded a satisfaction for his externment from these contiguous districts.

5. The petition is therefore allowed. Order dated 31.7.2001 passed by the externing authority against Shri Fazlur Rehman N. Pathan and order dated 18.9.2001 passed by the appellate authority, both are hereby quashed and set aside. Rule made absolute. Direct service permitted.

(A.L.Dave,J.)

*/Mohandas